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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,204	03/02/2004	Kevin Keith Line	05918-361001	1992
26161	7590	05/30/2007		
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER THOMAS, ALEXANDER S	
			ART UNIT 1772	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/791,204

**Applicant(s)**

LINE ET AL.

**Examiner**

Alexander Thomas

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/07 has been entered.

### ***Claim Objections***

2. Claim 26 is objected to because of the following informalities: there is no antecedent basis for the term "the male fastener elements". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the touch fastener can be formed of a single contiguous resin as stated in claim 2 and have the structure set forth in claim 1 wherein the "film" is secured to the upper face of the base. Clearly two non-contiguous layers are required for the structure described in claim 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morse et al 5,110,649 in view of either Northrup et al or Banfield et al 5,736,217. The primary reference discloses a touch fastener for use in a mold insert comprising a base 10 having a plurality of hooks 12 extending in an array on one surface, a magnetically attractable material 17 on the other surface of the base and a film 14 secured to a surface of the base the film having selvages disposed on either edge of the base. The primary reference also discloses that the base 10 needs to be stiff in the transverse direction and the selvages need to be flexible and compressible in order to seal the insert into the mold surface; see column 3, lines 21-34, column 4, lines 23-38 and Figure 4. Therefore, it would have been obvious to one of ordinary skill in the art to have the film 14 in the product of the primary reference be less stiff than the base 10 in order to have the ability to adequately seal the insert in the mold surface. It would also have been obvious to one of ordinary skill in the art to adjust the flexibility of the film layer 14 in the reference to provide an optimum degree of flexibility to seal the insert in the mold surface. Concerning the position of the magnetically attractable material, the secondary references disclose the equivalence of various positions of magnetically attractable material in fastener mold inserts. It would have been obvious to one of ordinary skill in the art to secure the magnetically attractable of the primary reference's product directly on the base in view of the teaching of equivalence in the secondary references. The primary reference also does not disclose the claimed shape of its

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ferrite containing layer, sizes of various parts of the fastener, the claimed rigidity of the selvage portions, the density of the fastener elements or selvages on all sides of the fastener. It is well-known in the mold-in, seat fastener art to provide a metal wire or strips, as well as metal particles in a binder, on a mold-in fastener to provide a means of holding the fastener in a mold during molding of a foam seat cushion. It would have been obvious to one of ordinary skill in the art to substitute a wire or metal strip for the metal-particles/binder in the reference's article in view of the structural equivalence of using these materials. Concerning the size and density of the various parts of the claimed fastener, it would have been obvious to one of ordinary skill in the art to adjust the size of the various parts of the fastener in the primary reference as well as the density of the fastener elements to provide a fastener with the desired optimum properties for a particular end use. Concerning the placement of selvages on all sides of the fastener, this would have been obvious to one of ordinary skill in the art since a duplication of parts is general recognized as being within the level of ordinary skill in the art. Regarding the term "sealingly" in claim 1, the primary reference discloses that the film 14 *seals* the insert in the mold surface and Figure 4 of the reference also shows the film conforming to the mold surface due to the magnetic attraction and flexibility of the insert.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



ALEXANDER S. THOMAS  
PRIMARY EXAMINER